

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Milton I. Shadur	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 C 4566	DATE	10/20/2003
CASE TITLE	Sam Calascibetta vs. Village of Oak Park		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "Motion" box above.]
(2)	<input type="checkbox"/>	Brief in support of motion due _____.
(3)	<input type="checkbox"/>	Answer brief to motion due _____. Reply to answer brief due _____.
(4)	<input type="checkbox"/>	Ruling/Hearing on _____ set for _____ at _____.
(5)	<input type="checkbox"/>	Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(6)	<input type="checkbox"/>	Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
(7)	<input type="checkbox"/>	Trial[set for/re-set for] on _____ at _____.
(8)	<input type="checkbox"/>	[Bench/Jury trial] [Hearing] held/continued to _____ at _____.
(9)	<input type="checkbox"/>	This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to] <input type="checkbox"/> FRCP4(m) <input type="checkbox"/> Local Rule 41.1 <input type="checkbox"/> FRCP41(a)(1) <input type="checkbox"/> FRCP41(a)(2).
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Memorandum Order. Accordingly, as stated at the outset, both Heise's and Wiggin's most recent responsive pleadings are stricken from the file. Their counsel are granted leave to file a Second Amended Answer and Ads in this Court's chambers on or before October 30, 2003. In the interest of conserving the environment as well as facilitating the review and comparison of the respective responses, counsel are directed to file a single pleading on behalf of the two individual defendants.
(11)	<input checked="" type="checkbox"/>	[For further detail see order attached to the original minute order.]

<input type="checkbox"/>	No notices required, advised in open court.		number of notices 001 21 2003	Document Number 13
<input type="checkbox"/>	No notices required.		date docketed	
<input checked="" type="checkbox"/>	Notices mailed by judge's staff.		docketing deputy initials JSB	
<input type="checkbox"/>	Notified counsel by telephone.		10/20/2003	
<input type="checkbox"/>	Docketing to mail notices.		date mailed notice	
<input type="checkbox"/>	Mail AO 450 form.		SN	
<input type="checkbox"/>	Copy to judge/magistrate judge.		mailing deputy initials	
SN	courtroom deputy's initials	Date/time received in central Clerk's Office		

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SAM A. CALASCIBETTA,)
)
Plaintiff,)
)
v.) No. 03 C 4566
)
VILLAGE OF OAK PARK, et al.,)
)
Defendants.)

DOCKETED
OCT 21 2003

MEMORANDUM ORDER

All three defendants in this employment discrimination action brought by Sam Calascibetta ("Calascibetta")--Village of Oak Park ("Village"), Village Attorney Raymond Heise ("Heise") and Assistant Village Manager M. Ray Wiggins ("Wiggins")--have filed Amended Answers and Affirmative Defenses ("ADs") to Calascibetta's Complaint. This memorandum order is issued sua sponte to strike the meaningfully inadequate responsive pleadings filed by Heise and Wiggins and to require them to replead.

In each instance Heise and Wiggins forgoes answering Calascibetta's allegations in Complaint Counts One and Two on the premise that those allegations target only Village, and Wiggins also eschews a response to the allegations of Complaint Count Three on the basis that they are directed only against Heise. But in doing so their counsel neglects the fact that each of the counts advanced against their clients--Count Three against Heise and Count Four against Wiggins--begins in this fashion:

1-58. Plaintiff Sam A. Calascibetta realleges

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paragraphs 1-58, inclusive, of Count --,¹ as Paragraphs 1-58, inclusive, of this Count [Three or Four, as the case may be].

So when each defendant purportedly "restates and incorporates by reference" his responses to the earlier count, that is totally meaningless--it refers back to nothing at all.²

Accordingly, as stated at the outset, both Heise's and Wiggins' most recent responsive pleadings are stricken from the file. Their counsel are granted leave to file a Second Amended Answer and ADs³ in this Court's chambers (with a copy of course being transmitted to Calascibetta's counsel) on or before October 30, 2003. In the interest of conserving the environment as well as facilitating the review and comparison of the respective responses, counsel are directed to file a single pleading on behalf of the two individual defendants.



Milton I. Shadur
Senior United States District Judge

Date: October 20, 2003

¹ In Count Three the word omitted from the quoted text is "Two," and in Count Four the word omitted is "Three."

² Nor is what has been referred to in the text merely harmless error. At least in part, the non-responded-to allegations ascribe some conduct to the individual defendants.

³ This memorandum order has not addressed the legal sufficiency of any of the ADs, so no inference should be drawn from granting leave to replead them.